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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/479,653	01/10/2000	HIDETOSHI WADA	35.C14165	3352
5514	7590	02/25/2004	EXAMINER	
FITZPATRICK CELLA HARPER & SCINTO 30 ROCKEFELLER PLAZA NEW YORK, NY 10112			VENT, JAMIE J	
ART UNIT		PAPER NUMBER		
2613				8
DATE MAILED: 02/25/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	09/479,653	WADA ET AL.
	<b>Examiner</b>	<b>Art Unit</b>
	Jamie Vent	2613

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on 15 December 2003.
- 2a) This action is **FINAL**.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) \_\_\_\_\_ is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) \_\_\_\_\_ is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 03 December 2003 is/are: a) accepted or b) objected-to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_
- 4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date \_\_\_\_\_
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_

***Foreign Priority***

Examiner acknowledges that all certified copies of the priority documents have been received and apologizes for the overlooked error.

***Response to Amendment***

The following is the new rejection based on the applicants' amendment dated December 15, 2003. Arguments are considered moot in view in association with Mattes (US 6,038,295). While argument are deemed persuasive in association with Squilla et al (US 6,396,537)

On Page 10-11 applicant has argued that the Squilla et al reference fails to teach the an image communication apparatus that communicates with a recording apparatus using a wireless communication unit, wherein the image communication "*has an operation mode of automatically transmitting one or more digital images recorded on the recording medium, and wherein the operation mode has a judging process of judging whether to skip a reproduction of a digital image already transmitted to the recording apparatus*". While applicant's points are understood, the examiner notes Figure 6 where an operation mode is shown that processes/judges information of the pictures with the received personality file to determine the desired content, skipping or deleting of pictures. The operation also has a user mode, step 146, to further judge, which pictures are to be skipped or deleted before purchasing the pictures. While the applicant's points are understood, the examiner cannot agree. Therefore this rejection is maintained.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

**Claims 22-33 are rejected under 35 U.S.C.102(b) as being anticipated by Squilla et al (US 6,396,537).**

**[claims 22, 23, 25, 26, 30, 31, 32, and 33]**

In regard to Claims 22, 23, 25, 26, 30, 31, 32, and 33, Squilla et al discloses an image communication apparatus that communicates with a recording apparatus using a wireless communication unit, the image communication apparatus comprising:

- image pickup means for adapted to generate digital image (Figure 3 the digital image is generated in the camera in the microprocessor then will be sent to the communication processor for an image pickup to be sent wirelessly to the CPU 10 or the server 70)
- recording unit adapted to record the digital image generated by the image generation unit on a recording medium (Figure 3 shows recording of the picture either to film 54 or as seen in Figure 2 a digital camera to memory 48 and then transmitted to CPU memory 16 before being sent to the server which acts as the recording unit since the images are recorded to prints, CDs, and/or email);
- image communication apparatus has an operation mode of automatically transmitting one or more digital images recorded on the recording medium (Column 4 Lines 16+ transmitting of images and Column 4 Lines 55 automatically transmitting of images from camera to the CPU while camera is in the communicating range of the image spot);

- operation mode has a judging process of judging whether or not to skip or delete a reproduction of a digital image already transmitted to the recording apparatus (Figure 6 shows the operation mode of recording unit when pictures are received (step 140 drop off film for cameras that have film while digital pictures would have already been transmitted via wireless transmission) the film processor connects to the image server which judges whether to skip or delete a reproduction if the picture does not fit the desired content from the personality file, Step 144 or 150. Another operation mode step 146 also provides the user the opportunity to decide whether the pictures are to be skipped or deleted before purchasing); and
- image communication apparatus communicates with a recording apparatus using a wireless communication unit (Figure 2 element 20 and 82 allows wireless communication between the camera 24, CPU 10, and server 70).

**[claims 24, 27, 28, 29]**

3. In regard to Claims 24, 27, 28, and 29, Squilla et al discloses an image communication method and apparatus that includes a camera (Figure 1 Element 24).

***Conclusion***

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.163(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the even a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed and extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event; however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

***Contact Fax Information***

*Any response to this action should be mailed to:*

Commissioner of Patents and Trademarks  
Washington, DC 20231

*Or faxed to:*

703.208.6306 (for formal communication intended for entry)  
703.308.5359 (for informal or draft communications, please label "PROPOSED"  
or "DRAFT")

*Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington,  
VA., Sixth Floor (Receptionist).*

***Contact Information***

*Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jamie J. Vent whose telephone number is (703) 305-0378.*

*If any attempts to reach the examiner by telephone are unsuccessful, the examiners supervisor,  
Christopher Kelley, can be reached at (703) 305-4856.*

*Any inquiry of a general nature or relating to the status of this application should be directed to  
the Group receptionist whose telephone number is (703) 305-4700.*

Miss Jamie Vent  
02/18/2004

  
CHRIS KELLEY  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600